

**(1) Fifth and Final Account and Report of Guardians on Termination of Guardianship and Petition for Its Settlement, (2) for Allowance of Compensation and Reimbursement of Costs to Attorneys, and (3) for Order for Delivery of Assets and Transfers From Blocked Accounts [Prob. C. 1600, 2620 & 2640]**

Age: 18		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	2620(c)	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

<b>WILLIAM D. PRAETZ and EDNA E. PRAETZ,</b> Maternal Grandparents and Guardians, with bond of \$20,000.00, are Petitioners.  Account period: 1-1-11 through 5-31-13  Accounting:       \$223,295.34 Beginning POH:   \$169,701.21 Ending POH:      \$221,512.84 (Cash)  Guardians: Not requested  Attorney: \$2,537.50  Costs: \$513.00	
<b>Petitioners pray for an order that:</b>  1. The fifth and final account be settled, allowed and approved;  2. Attorney fees and costs are authorized;  3. Petitioners be authorized to transfer funds from the estate's blocked savings account to pay the fees, costs and expenses approved by the Court;  4. Administration of the guardianship estate and this proceeding be terminated and all property and assets be delivered to Sarah F. Scott;  5. Petitioners and their sureties be discharged and released from further liability following deliver as directed, filing of receipts, and passage of such time as required by law; and  6. Such other and further orders as the Court deems proper.	

<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Note:</u> Petitioner submitted a Judgment Settling Fifth and Final Account; however, an Order for Withdrawal of Funds from Blocked Account may also be necessary (MC-358).	
<b>Reviewed by:</b> skc	
<b>Reviewed on:</b> 7-18-13	
<b>Updates:</b>	
<b>Recommendation:</b>	
<b>File 1 – Scott</b>	

Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Guardian)  
 Atty Wright, Janet L., of Wright & Johnson (Court-appointed for Conservatee)

**(1) Third Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney (Prob. C. 2620, 2623, 2640, 2942)**

<b>Age: 71 years</b>	<b>PUBLIC GUARDIAN</b> , Conservator of the Person and Estate, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b><u>Continued from 6/5/2013.</u></b> Minute Order [Judge Snauffer] states matter continued to 7/24/2013, and shows appearances by Attorney Heather Kruthers and Attorney Summer Johnson.  <b><u>Note:</u></b> If the <i>Petition</i> is granted, Court will set a status hearing as follows:  • <b>Friday, September 25, 2015</b> at 9:00 a.m. in Dept. 303 for filing of the next account.
	<b>Account period: 4/7/2011 – 4/5/2013</b>	
<b>Cont. from 060513</b>	Accounting - <b>\$270,457.07</b>	
<b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$252,976.84</b>	
✓ <b>Verified</b>	Ending POH - <b>\$177,131.53</b> (\$47,726.64 is cash)	
<b>Inventory</b>	Conservator - <b>\$2,977.12</b> (12.36 Deputy hours @ \$96/hr and 23.56 Staff hours @ \$76/hr)	
<b>PTC</b>	Attorney - <b>\$2,000.00</b> (less than \$2,500.00 allowed per Local Rule)	
<b>Not.Cred.</b>	Bond fee - <b>\$299.04</b> (OK)	
✓ <b>Notice of Hrg</b>	<b>Petitioner prays for an Order:</b>	
✓ <b>Aff.Mail</b> W/	1. Approving, allowing and settling the Third Account;	
<b>Aff.Pub.</b>	2. Authorizing the conservator and attorney fees and commissions; and	
<b>Sp.Ntc.</b>	3. Authorizing payment of the bond fee.	
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
✓ <b>Order</b>		<b>Reviewed by:</b> LEG
<b>Aff. Posting</b>		<b>Reviewed on:</b> 7/22/13
<b>Status Rpt</b>		<b>Updates:</b>
<b>UCCJEA</b>		<b>Recommendation:</b>
<b>Citation</b>		<b>File 2 – Klein</b>
<b>FTB Notice</b>		

## Report of Sale and Petition for Order Confirming Sale of Real Property

		<b>PUBLIC GUARDIAN</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Sale price: \$47,500.00	
		Overbid: \$50,375.00	
	<b>Aff.Sub.Wit.</b>	Reappraisal: \$35,000.00	
✓	<b>Verified</b>		
	<b>Inventory</b>	Property: 941 E. Vine Ave., Fresno 93706	
	<b>PTC</b>		
	<b>Not.Cred.</b>	Publication: Fresno Business Journal	
✓	<b>Notice of Hrg</b>	Buyer: Eddy Morales, a married man, as his sole and separate property	
✓	<b>Aff.Mail</b>	W	
✓	<b>Aff.Pub.</b>	Broker: \$2,375.00	
	<b>Sp.Ntc.</b>	(\$1,187.50 each to Rocio Mora of Central Valley Properties, Inc., and Paul Benak of Guarantee Real Estate)	
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
✓	<b>Letters</b>	Property to be sold as is except as to title. Cash sale. Taxes, City, County, District assessments and bonds, rents, operating and maintenance expenses and interest on encumbrances are prorated as of the date of the close of escrow. Buyer and seller each pay 50% escrow fee. Seller to pay buyer's title insurance policy, county transfer tax or fee, and for the drawing and recording of the deed or other document of conveyance. Purchaser's deposit of \$4,750.00 is subject to the provisions of Probate Code §10350.	
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
✓	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 7-19-13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 3 – Johnson</b>

<b>DOD: 03/11/10</b>		<b>OWEN R. OVERTON</b> , Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u><b>CONTINUED FROM 06/20/13</b></u>
		Account period: 06/03/10 – 03/31/13	
		Accounting - \$665,255.84	
		Beginning POH - \$521,763.15	
		Ending POH - \$560,590.84	
<b>Cont. from 062013</b>		Petitioner states that he intends to file a Petition for Final Distribution as soon as the sale of the real property asset of the estate is complete.	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input checked="" type="checkbox"/>	<b>Inventory</b>		
<input checked="" type="checkbox"/>	<b>PTC</b>		
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
<input checked="" type="checkbox"/>	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
<b>Petitioner prays for an Order:</b> 1. Settling, allowing and approving the First Account.			<b>Objection to Petition for Settlement of First Account filed 06/14/13 states:</b> 1. Objector objects to Schedule A paragraphs 1, 2 and 3 in that it is incomplete and does not characterize the property of the real estate and the personal property as separate, quasi community or community property. 2. Objector objects to Schedule B regarding the agreement that Ana Overton owes the estate \$11,484.77 for rent while living in her own apartment. Objector is 75 years old and her husband always promised her that she would have the units to live in and have money to live on. Objector felt pressured by Petitioner to make this agreement. Objector, as owner of the property should not have to pay rent to herself. If anything is owed, it would be \$2,871.19 to Owen Overton. 3. Objector objects to Schedule D regarding the sale of personal items in that the items are not described and how the sale price as basis of \$5,655.00 was determined, and when the items were sold the Objector never received a Notice of Proposed Action as required by the Code. 4. Objector objects to Schedule D items described as Involuntary conversion of \$16,108.09 of insurance proceeds as this is too broad and not understandable and should not be allowed. 5. Objector objects to Schedule J, paragraph 2, that she owes \$16,108.09 as it is very vague and lacks specificity for the basis of the claim. 6. Objector objects to Schedule J, paragraph 4 regarding money allegedly owed by Objector. <b>Objector requests:</b> 1. The Court not approve the First Account as presented; 2. The Court make a determination of the estate property as community property; 3. For all other relief the Court may deem just and proper.
			<b>Reviewed by:</b> JF <b>Reviewed on:</b> 07/19/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 4A – Overton</b>

<b>DOD: 03/11/10</b>		<b>ANA D. OVERTON</b> , surviving spouse, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Petitioner alleges:</b>	1. Need Notice of Hearing and proof of service by mail at least 15 days before the hearing of Notice of Hearing for: - Owen Overton - David W. Overton - David Overton, personal representative of the Estate of Terry L. Overton - Thomas G. Overton, Assignee of Thomas Overton, deceased - DCM Services, LLC (needs 30 days notice) <b>Note:</b> It appears that Petitioner has attached a proof of service to her Petition. However, Notice of Hearing is a mandatory document in Probate, therefore a proof of service attached to a Petition is insufficient.  2. Need Order.
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	1. The Administrator of the Estate has filed a Petition for Settlement of First Account. 2. A dispute exists between the Administrator and Petitioner, the decedent's widow, regarding whether all the assets of the Estate are separate or community property. Petitioner believes that all of the assets of the estate are community in character because the real estate that was recently sold was in the name of decedent and Petitioner and was transferred out of Petitioner's name without her full knowledge and understanding of the deed that was presented to her by the Administrator. The Petitioner and decedent were married from 1997 until his death. 3. Petitioner and decedent managed the real property together. Decedent owned the real property prior to the marriage and she helped him manage the property (an apartment complex) throughout their marriage. 4. In 2004, Decedent transferred the real property to himself and Petitioner as husband and wife. (Copy of Grant Deed attached to Petition as Exhibit 1). 5. On 09/11/07 without the knowledge of the Petitioner she executed a grant deed, recorded 09/24/07, transferring the property to her husband only and 20% to the Administrator (copy attached as Exhibit 2). 6. The 09/11/07 grant deed was presented to Petitioner for signature by the Administrator without explanation of the consequences to her if she signed it. Petitioner states that she was told that the grant deed was only for the units owned by she and the decedent.	
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>		x
<input type="checkbox"/>	<b>Aff.Mail</b>		x
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b>	x	
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

Continued on Page 2

4B

4B Robert G Overton (Estate)

Case No. 10CEPR00313

Page 2

7. Also on 09/11/07, the decedent and Administrator (decedent's son), executed a Grant Deed to Robert G. Overton (decedent) and Ana D. Overton (Petitioner), Husband and Wife as joint tenants. The fact

that two different deeds were executed on the same day demonstrates that someone was trying to pull something over on the Petitioner and in bad faith. (Exhibit 3).

8. There was no separate agreement signed by Petitioner nor was consideration paid to Petitioner when she signed the Deed. She did not have independent counsel review the documents before she signed it.
9. This was not the last time the Administrator presented a document to Petitioner to sign that turned out to be to her detriment. In April 2010, the Administrator presented a declination to serve as Personal Representative to Petitioner to sign without explaining to Petitioner what it was. Administrator presented the document to Petitioner stating that he needed her to sign it so that he could take care of the family owned apartment complex. Petitioner states that the Administrator came to her home at night and unduly influenced her to sign the declination to serve and wouldn't leave her home until she signed it.
10. The Administrator also unduly influenced Petitioner to sign the waiver of bond document. These documents were presented to Petitioner by the Administrator about 30 days after the decedent's death.
11. The real property located at 981 Pollasky in Clovis was community property and the proceeds of the sale of said property are therefore community property.
12. The Inventory & Appraisals filed in this matter fail to comply with Probate Code § 8850(c) and do not state whether or not the real and personal property was separate, community or quasi community property. This may be because the Administrator did not know the character of the property.

**Wherefore, Petitioner requests that the Court determine the character of the estate property and those who are entitled to distribution of the estate assets.**

**Objections and Response to Ana Overton's Petition for Determination of Entitlement to Estate Distribution** filed 07/19/13 by Owen R. Overton admits and denies portions of the Petition and states:

1. Respondent admits that there is a dispute between he and the Petitioner, decedent's widow. Respondent further admits that the decedent and Petitioner were married from November 1997 until the decedent's death.
2. Respondent alleges that the real property in question and all assets of the estate were the separate property of Decedent. Petitioner had previously held an interest in the real property with Decedent as joint tenants, but never as community property. Petitioner voluntarily and with full knowledge and understanding of the consequences deeded her interest to Decedent on or about September 11, 2007.
3. Respondent admits that Decedent owned the real estate prior to his marriage to Petitioner, but denies that Petitioner managed the units. Respondent and Decedent managed the units.
4. Respondent admits that Petitioner signed a deed transferring the real property to her husband as to 80% and to Respondent as to 20% but denies that Petitioner executed the deed without knowledge. On the contrary, the deed was read to Petitioner and explained to Petitioner by the agent of the lender that handled the transaction. Furthermore, Respondent commented that the deed was different in that it did not have Petitioner's name on it. Petitioner signed the deed voluntarily and with full knowledge of the consequences.
5. Respondent alleges that the deed was explained to Petitioner by an independent third party who presided over the transaction and notarized the document. Respondent also commented in Petitioner's presence that the deed was different than how title was held before.

Continued on Page 3

6. Respondent admits that there was a deed on the same date by Decedent and Owen Overton to Decedent and Ana D. Overton as joint tenants. Respondent believes that that deed was recorded prior to the other deed signed on that date. Respondent alleges that the purpose of the two deeds was not to "pull something over on Petitioner", but to enable Petitioner and Decedent to obtain a loan on the real property so that Decedent and Petitioner could spend the money. Decedent and Petitioner intended to temporarily take Respondent's name off the property so that Decedent and Petitioner could obtain a loan on the property in their name alone. Respondent alleges that the loan was obtained and Decedent and Petitioner intended to restore title to the property to its prior status before Decedent added Petitioner's name to the property, namely 80% to Decedent and 20% to Respondent. The deed of trust which resulted from this transaction was executed by Decedent and Petitioner alone and was recorded more than one month after the deed which Decedent and Petitioner granted the property 80% to Decedent and 20% to Respondent. Respondent alleges that the fact that the deed of trust executed by Decedent and Petitioner was recorded after the deed by which Petitioner relinquished her interest in the property causing the title company to take the position that there was a cloud on the title to the property. The sale of the property which was confirmed and ordered by this court on 06/05/13 has not yet closed because the escrow company, while acknowledging that Petitioner had relinquished title to the property, has asked that Petitioner sign the deed transferring the property to the respective buyer to clear up what the escrow company considers a cloud on the title caused by the deed and deed of trust which were recorded out of sequence. Petitioner has refused to sign the grant deed.
7. Respondent states that it is outrageous for Petitioner to allege that there was no consideration paid when the transaction resulted in a \$100,000.00 loan, proceeds of which Petitioner has received and spent.
8. Respondent admits that he presented a Declination to Act and Waiver of Bond to Petitioner but denies all other allegations regarding the presentation of these documents.
9. Petitioner has made no allegations regarding the characterization of the personal effects, jewelry, works of art, and household furniture and furnishings of the estate, but these items are separate property as well.
10. Even if it was determined that Petitioner signed the deed relinquishing her interest in the real property without understanding what she was signing, which is rejected by Respondent, it is impossible to conclude that the result is that Petitioner had a community property interest in the property. In fact, Petitioner and Decedent never characterized the property as community property; rather they characterized it as joint tenancy. Decedent also signed the deed by which Petitioner relinquished her interest in the real property and in doing so, Decedent severed the joint tenancy. If Petitioner had any interest in the property, it was limited by the fact that Decedent had severed the joint tenancy and the interest he retained after severing the joint tenancy was his separate property and it does not pass entirely to Petitioner, but passes pursuant to the laws of intestate succession for separate property.
11. Respondent further alleges that Petitioner has obstructed the administration of the estate. She has objected at every stage of the proceeding, including the petition for letters of administration. She has made repeated claims that she did not understand documents that she was signing or the meaning of various actions or proceedings in spite of the fact that she has been represented by at least two attorneys during the duration of the administration of the estate. There was a fire in Petitioner's apartment on the real property shortly after the administration of the estate opened which delayed the process of selling the property for almost 2 years. Thereafter, Petitioner expressed a strong desire to sell the property and pressured Respondent for the last year to find a buyer for the property. However, she attempted to thwart potential sales of the property by telling anyone who would listen that the property was not for sale. She shared confidential information by telling certain tenants what other tenants were paying in rent in an attempt to create dissension among the tenants.

Continued on Page 4

12. When Respondent finally procured a buyer for the property and gave notice of proposed action, Petitioner objected. Respondent then went to court to obtain an order confirming the sale. Again Petitioner objected, but the Court ordered the sale. Now the title company has required Ana's signature on the deed to clear a cloud on title, but she has refused to sign, further obstructing the sale and Respondent's efforts to comply with an Order of this Court.

**Wherefore, Respondent prays for an order as follow:**

1. That the Court determine that the character of all the estate property including the real property located at 981 Pollasky Avenue, Clovis, CA as well as the personal effects, jewelry, works of art, and household furniture and furnishings is the separate property of Decedent and that the entire estate should be distributed according to the laws of intestate succession for separate property.
2. That the Court order Petitioner to join in executing the deed transferring the real property located at 981 Pollasky Avenue, Clovis, CA to the buyer as ordered in the Order Confirming Sale of this Court on or about 06/05/13.



Age: 11 years		<b>TEMPORARY EXPIRES 6/25/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		NICOLE McGUIRE, cousin, is petitioner.		<b>Continued from 6/25/13. Minute order states father objects to the guardianship. Mother requests time to retain counsel.</b>  1. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Paternal grandfather b. Maternal grandparents	
		Father: <b>MATTHEW GIBSON</b> – consents and waives notice. <b>Note:</b> Father appeared at the hearing on 6/25/2013 and objected.			
Cont. from 050713, 062513		Mother: <b>KRIS O'BANNON</b> – present in court on 5/7/13.			
	Aff.Sub.Wit.		Paternal grandfather: unknown		
✓	Verified		Paternal grandmother: Pam Garcia – consents and waives notice.		
	Inventory		Maternal grandparents: not listed.		
	PTC		<b>Petitioner states</b> the father was given full custody due to the mom's drug use and now the father has left the child and has started drugs again. The child has no stable adult who can make legal decisions for him.		
	Not.Cred.		<b>Court Investigator Samantha Henson's Report filed on 4/26/2013</b> states it appears guardianship is necessary and in the best interest of the minor. If further appears that it would be detrimental for the minor to be in the care of either parent given their recent arrests and history of drug abuse. It is therefore recommended that the petition be <b>GRANTED</b> .		
✓	Notice of Hrg		<b>Court Investigator Samantha Henson's Supplemental Report filed on 6/20/13</b>		
✓	Aff.Mail	W			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				

Reviewed by: KT

Reviewed on: 7/19/13

Updates:

Recommendation:

File 5A – O'Bannon

5A

**Declaration of Cindy J. Hopper filed on 6/19/2013** states upon review of the child's mother's criminal records in Fresno County, mother, Kris O'Bannon has been convicted of several drug related crimes.

On 12/28/1998 the mother, Kris O'Bannon was convicted for violation of Penal Code 273a(b) in Fresno Superior Court [misdemeanor child endangerment]. Family Code §3030 states "(a) (1) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to be registered as a sex offender under Section 290 of the Penal Code where the victim was a minor, **or if the person has been convicted under Section 273a**, 273d, or 647.6 of the **Penal Code**, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reason for its findings in writing or on the record . . . "

The mother, Kris O'Bannon currently has one outstanding felony arrest warrant issued in Fresno County for second degree burglary, violation date 3/2/2012 and another outstanding warrant issued in Fresno County for possession of a controlled substance and possession of paraphernalia for smoking or injecting.

Probate Code §1514(b) states, in appointing a guardian of the person, the court is governed by Chapter 1 (commencing with Section 3020) and Chapter 2 (commencing with Section 3040) of the Family Code, relating to custody of a minor.

The mother Kris O'Bannon, has been convicted of violation of Penal Code §273a(b) and should not have custody of the minor child or any unsupervised contact with the minor child.

The mother poses a substantial risk of harm to the child based on the foregoing the Court should grant the permanent guardianship and order the mother to have supervised visitation with the minor child as agreed to by the Petitioner.

Atty Keeler, William J.; of Garvey Schubert Barer, Portland OR (for Petitioner Margaret Friesen)  
 Atty Meyer, Kent; Yee, Michael; of Meyer & Yee, Roseville (for Respondent Gregory Friesen)

**Amended Petition to Construe Trust Provisions; to Remove Trustee;  
 to Compel Trustee to Account; and for Surcharge [Prob. C. 16420(a)(3);  
 16420(a)(5); 17200(a), (b)(1)]**

<b>Mary Lou DOD:</b> <b>8/17/2007</b>		<b>MARGARET FRIESEN</b> , spouse of Leroy J. Friesen and named Trust Beneficiary, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note:</b> Minute Order dated 6/12/2013 [Judge Black] from the hearing on the initial <i>Petition to Construe</i> states prior to the matter being called, Mr. Meyer was present via CourtCall. Mr. Keeler advises the Court that he will provide notice to all the parties regarding the 7/24/2013 hearing date.  <b>Note:</b> Proposed order contains blank spaces for insertion of the dollar amount of compensation owed to Petitioner for items removed from the home, and the dollar amount of surcharges to be paid by the Trustee to reimburse the Trust.
<b>Leroy DOD:</b> <b>12/21/2012</b>			
<b>Cont. from</b>		<b>Petitioner states:</b> <ul style="list-style-type: none"> <li>In September 1992, <b>LEROY J. FRIESEN</b> and <b>MARY LOU FRIESEN</b> created the <b>LEROY J. FRIESEN AND MARY LOU FRIESEN REVOCABLE TRUST</b>, which was amended and restated on 12/12/2007 (<i>copy attached as Exhibit A</i>);</li> <li>The Trust was amended by written amendments on 4/27/2011 and 6/11/2012 (<i>copies attached as Exhibits B and C</i>);</li> <li>Petitioner has standing to bring this petition because she is a named Beneficiary and is the surviving spouse of Leroy; additionally, this issue is ripe for adjudication as the current acting [Successor] Trustee, <b>GREGORY L. FRIESEN</b>, son of Leroy and Mary Lou, has erroneously denied Petitioner access to her community property acquired during her marriage to Leroy, her own personal property, and personal property granted to her in the Trust by Leroy; previous attempts to resolve this matter without court intervention have been unsuccessful;</li> <li>The principal place of trust administration for the Trust has been in Fresno County since its creation, as Leroy administered the Trust in Fresno County until his death; the person purporting to act as current [Successor] Trustee has failed, despite request, to give notice to the Beneficiaries pursuant to Probate Code § 16061.7 as to the address of the physical location where the principal place of administration of the Trust is located; accordingly, this Court has jurisdiction in this matter and is the proper venue for this proceeding;</li> </ul> <p align="center">~Please see additional page~</p>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		W /
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 7/22/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 6 – Friesen</b>	

**Petitioner states, continued:**

- After Mary Lou's death on 8/17/2007, Leroy acted as sole Trustee until his death on 12/21/2012; Petitioner has not received any notice from the current [Successor] Trustee that any other person served as Trustee prior to Leroy's death; upon Leroy's death, Gregory became the Successor Trustee; Petitioner and Leroy were married on 6/29/2008, and were married at the time of Leroy's death (*copy of marriage certificate attached as Exhibit D*);

**Petition to Construe Trust Provisions:**

- The plain language of the Trust, as amended and restated, grants all of Leroy's personal property to Petitioner as his wife [*emphasis in original*];
- Petitioner alleges that based on application of California law as well as I.R.C. § 60501, that the mobile home located at Morro Bay is classified as "personal property" and therefore should be distributed to her; and Petitioner requests the Court's interpretation of those provisions of the Trust confirming and ordering this distribution;
- The First Amendment dated 4/27/2011, at a time when Petitioner and Leroy were married, added Article Four and A Half : Specific Distributions and Disposition of Tangible Personal Property; Article Four and A Half, paragraph 1 is entitled "Distributions to Margaret A. Friesen" and states that upon Leroy's death, the **Trustee shall give all of Leroy's personal property to [Leroy's] wife** [*emphasis in original*] except for any personal property that is specifically granted to individuals pursuant to the paragraph "Distribution of Tangible Personal Property by Memorandum;"
- Article Four and A Half, paragraph 4 entitled "Definition of Tangible Personal Property" defines personal property as household furnishings, appliances and fixtures, works of art, motor vehicles, pictures, collectibles, personal wearing apparel and jewelry, books, sporting goods, and hobby paraphernalia; paragraph 4 states tangible personal property shall not include any property that the Trustee, in its sole and absolute discretion, determines to be part of any business or business interest by Leroy or his Trust;
- Leroy executed a "Personal Property Memorandum of Leroy J. Friesen" on 4/22/2011 in which is listed "2 Kincaid paintings" to be given to "Greg Friesen" (*copy attached as Exhibit E*); no other property is listed on this memorandum;
- Based upon the foregoing, Petitioner believes that the plain language of the Trust, specifically Article Four and A Half, paragraphs 1 and 4, and the existence of the "Personal Property Memorandum" provides definitive proof that the mobile home located at Morro Bay is classified as "personal property" and belongs to her;
- There is no evidence that Leroy ever designated a mobile home to another beneficiary, nor is there any evidence that the mobile home belongs to a business owned by Leroy or the Trust;
- During their marriage, both Petitioner and Leroy used the Morro Bay home, along with their Fresno County home, as residences and furnished both homes with community property purchased furniture;
- Gregory, acting as Successor Trustee, has taken the position that the mobile home is his and has refused to distribute it to Petitioner;
- In the course of this dispute between Petitioner and Gregory, Petitioner is informed and believes that the Morro Bay home has been emptied of all personal property—including her marital community property, items belonging to Petitioner, and to Petitioner's daughter and son-in-law—and that the locks have been changed; the mobile home has been partially painted a new color;
- The Trustee has admitted in sworn deposition testimony that he is still in possession of Leroy's personal property to which Petitioner is entitled and personal property belonging to Petitioner; and further admitted he has distributed personal property to his sister, to which the Petitioner is entitled;

**~Please see additional page~**

**Petitioner states, continued:**

- Petitioner believes that the replacement value of the personal property "removed" *[emphasis in original]* without her permission is between **\$7,000.00** and **\$10,000.00**;
- Petitioner believes that Gregory, acting as Successor Trustee, is incapable of making the proper distribution to her of personal property and asks that the Court intervene and order that Gregory as the Successor Trustee follow the terms of the Trust;
- Petitioner also respectfully requests that the Court order Gregory to return the items removed from the mobile home.

**Petition to Remove Trustee:**

- Petitioner alleges that Gregory, acting as Successor Trustee, committed a breach of trust by failing in his duty to delivery, according to Trust terms, the personal property to which Petitioner is entitled;
- Gregory, acting as Successor Trustee, has taken the position that the mobile home is part of a business conducted by Leroy prior to his death in an attempt to bring the mobile home under business exception contained in the First Amendment to the Trust;
- Gregory has admitted in his sworn deposition that he knows Leroy was retired and had allowed his insurance license to lapse years prior to Leroy's execution of the First Amendment to the Trust in 2011; Petitioner alleges that Gregory knows or should know that the lease for the location where the mobile home has been located since before the execution of the First Amendment specifically prohibits the operation of a business;
- Accordingly, Gregory has no good faith basis for asserting the mobile home was part of any business or business interest;
- Petitioner alleges that Gregory's actions are an abuse of discretion in bad faith constituting a violation of Probate Code § 16081, a further breach of trust;
- Gregory, acting as Successor Trustee, has taken the alternate position that the mobile home should be classified as real property and therefore not distributable to Petitioner; Petitioner alleges that Gregory, acting as Successor Trustee, knows the mobile home has axles and other features which are contrary to the assertion that it is real property, that the real property upon which the mobile home has been located since prior to the execution of the First Amendment is owned by persons other than Leroy, thereby preventing Leroy, Gregory or anyone else from establishing the mobile home as part of the realty, that Leroy specifically identified his real property, to the exclusion of the mobile home, to the estate planning attorney who prepared the First Amendment, that Leroy obtained title to the mobile home through the Department of Motor Vehicles and therefore Leroy knew prior to executing the First Amendment to the Trust in 2011 that the mobile home is properly classified as personal property;
- Accordingly, Gregory has no good faith basis for asserting the mobile home is real property;
- Petitioner alleges that Gregory's actions are a further breach of trust in that he has failed to act in the highest good faith toward Petitioner and has favored his own interest in violation of his duty of loyalty to Petitioner;
- Petitioner alleges that Gregory's actions as stated above demonstrate hostility toward Petitioner that has impaired the administration of the trust;
- Petitioner alleges that Gregory's actions as stated above constitute cause for his removal as required by Article 7, paragraph 2(B)(b) of the Second Amendment to the Trust, and pursuant to Probate Code § 16420(a)(5), Gregory should be immediately removed as Successor Trustee;

***~Please see additional page~***

**Petitioner states, continued:**

**Petition to Remove Trustee, continued:**

- Petitioner requests that the Court appoint **FLORIN LANDSEADAL**, Leroy's brother-in-law, as Successor Trustee in accordance with Article 7, paragraph 2(B)(a) of the Second Amendment to the Trust;
- Petitioner's reasonable attorneys' fees and costs should be charged as an expense of the Trust and paid directly to Petitioner's attorneys.

**Petition for Surcharge and Breach of Fiduciary Duties:**

- Petitioner alleges that Gregory, acting as Successor Trustee, has not administered the Trust according to its terms and applicable California law because Gregory has failed to distribute Petitioner's personal property that Gregory knows belongs to Petitioner;
- Petitioner alleges that Gregory, acting as Successor Trustee, has breached his duties under the Trust and applicable California law by abusing his discretion in a bad faith attempt to seize possession of the mobile home by characterizing it as part of a business;
- Gregory's alternative position that the mobile home should be considered real property, despite facts known by Gregory to be contradictory, is also in bad faith and further indicative of Gregory's breach of fiduciary duties owed to Petitioner;
- Petitioner alleges that Gregory's actions as Successor Trustee constitute breaches of the fiduciary duties and breaches of trust owed to Petitioner as a beneficiary of the Trust;
- As a direct and proximate result of the Trustee's breaches of fiduciary duties and breaches of trust, Petitioner and the Trust have suffered damages in an amount to be proven at trial;
- pursuant to Probate Code § 16420(a)(5), Gregory as Trustee should be compelled to redress the breaches of fiduciary duty and breaches of trust by payment of money according to proof at trial;
- Petitioner's reasonable attorneys' fees and costs should be charged as an expense of the Trust and paid directly to Petitioner's attorneys.

**Petition to Compel and Accounting:** Because Petitioner believes that Gregory has acted in breach of trust as set forth above, Petitioner asks the Court to order Gregory, acting as Successor Trustee, to prepare and file a complete account and report detailing his administration of the Trust from 12/21/2012 to the present.

**Petitioner prays for an Order:**

1. Interpreting Paragraphs 1 and 4 of Article Four and a Half of the Trust to provide Petitioner with ownership of the mobile home located in Morro Bay; [proposed order finds Trustee Gregory Friesen is ordered to convey title and ownership of the mobile home to Petitioner];
2. Requiring Gregory Friesen to return the items removed from the Morro Bay mobile home to Petitioner, or to personally furnish Petitioner and her daughter and son-in-law with compensation to account for the items removed from the home;
3. Removing Gregory Friesen as Successor Trustee of the Trust and appointing **FLORIN LANDSEADAL** as Successor Trustee of the Trust to serve without bond;
4. Compelling Gregory Friesen to provide a full and complete account and report of his administration of the Trust from 12/21/2012 to the date of removal of the Successor Trustee;
5. Surcharging Gregory Friesen in an amount according to proof; and
6. Granting attorney fees and costs pursuant to statute and/or case law.

Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Guardian)  
 Atty Sanoian, Joanne (Court-appointed for Conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate  
 (Prob. C. 1820, 1821, 2680-2682)

Age: 78 years		<b>TEMPORARY GRANTED EX PARTE:</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>EXPIRES 06/05/13; EXTENDED to 7/3/2013;</b>		
		<b>EXTENDED to 7/24/2013</b>		Court Investigator Advised Rights on 6/19/2013.
Cont. from 070313		<b>PUBLIC GUARDIAN</b> is Petitioner and requests appointment as Conservator of the Person with medical consent and dementia powers for administration of dementia medications and for placement in a secured-perimeter facility, and requests appointment as Conservator of the Estate without bond.		Voting Rights Affected – Need Minute Order.
	Aff.Sub.Wit.			<u>Continued from 7/3/2013.</u> Ms. Kruthers requests a continuance to ensure the amendment to the trust is executed and Ms. Cannon is still happy at the Fairwinds facility.  <u>Note: Ex Parte Order Authoring Conservator to Move Conservatee</u> filed on 6/27/2013 authorized the Public Guardian as Temporary Conservator to immediately move Ms. Cannon to Fairwinds Senior Facility.  <u>Note: Post-Move Notice of Change of Residence of Conservatee</u> filed 7/8/2013 shows the Conservatee moved to the Fairwinds on 7/2/2013.
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W/		
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.	W/		
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
✓	Citation			
	FTB Notice			

**Estimated Value of the Estate:**  
 Personal property - \$ 61,019.09  
 Annual income - \$ 43,968.00  
**Total - \$104,987.09**

**Voting Rights Affected.**

**Capacity Declaration of Constantine Phiripes, M.D.,** filed 5/28/2013 supports request for medical consent and dementia powers.

**Petitioner states:**

- Proposed Conservatee came to the attention of the Petitioner through a referral from Adult Protective Services who had been contacted by the proposed Conservatee's bank, after having become suspicious of wrongful activity when bank staff noticed large amounts of cash of over **\$130,000.00** being spent in a year's time;

~Please see additional page~

Reviewed by: LEG
Reviewed on: 7/23/13
Updates:
Recommendation:
File 7 – Cannon

**Petitioner states, continued:**

- Proposed Conservatee suffers from diabetes and needs reminders to take her medications, and during the time proposed Conservatee's daughter, **BRENDA SEARS**, went on vacation for 3 weeks, the proposed Conservatee was left alone and did not reliably eat or take her medication;
- A conservatorship is necessary for assuring proposed Conservatee's health and safety, as her daughter, and son, **MARK CANNON**, who it is reported lives in her house, have not provided proper supervision of her;
- It is reported that proposed Conservatee's daughter added her name to proposed Conservatee's checking account, and it appears the proposed Conservatee has been the victim of financial elder abuse by at least her daughter;
- Conservatorship is the only means by which proposed Conservatee's safety can be assured and her assets protected from being further depleted.

**Court Investigator Charlotte Bien's Report was filed on 6/25/2013.**

**Note: If petition is granted, Court will set status hearings as follows:**

- **Friday, January 10, 2014 at 9:00 a.m. in Dept. 303 for filing of inventory and appraisal; and**
- **Friday, September 26, 2014 at 9:00 a.m. in Dept. 303 for filing of the first account.**

Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.



**Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 04/04/2013	BETTY A. PATE, daughter/named executor without bond, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
Cont. from	Full IAEA – o.k.	
✓ Aff.Sub.Wit.		
✓ Verified	Will dated: 06/02/2013	
Inventory	Residence: Fresno	
PTC	Publication: The Business Journal	
Not.Cred.		
✓ Notice of Hrg	<b><u>Estimated value of the Estate:</u></b>	
✓ Aff.Mail w/	Personal property - \$525,000.00	
✓ Aff.Pub.	Real property - \$200,000.00	
	<b>Total: \$725,000.00</b>	
Sp.Ntc.		
Pers.Serv.	Probate Referee: Steven Diebert	
Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<b>Note: If the petition is granted status hearings will be set as follows:</b>
		<ul style="list-style-type: none"><li>• Friday, 12/20/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <b><u>and</u></b></li><li>• Friday, 09/19/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.</li></ul>
		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
		<b>Reviewed by:</b> LV
		<b>Reviewed on:</b> 07/19/2013
		<b>Updates:</b>
		<b>Recommendation:</b> Submitted
		<b>File 8 – Guidi</b>

<b>DOD: 03/30/2013</b>		<b>RHONDA A. BURRUS and ROBERT D. BURRUS</b> , children, are petitioners	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. #9a(3) or #9a(4) of the petition were not answered regarding registered domestic partner.
		40 days since DOD	
		No other proceedings.	
<b>Cont. from</b>		I&A - <b>\$80,000.00</b>	
<input checked="" type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input checked="" type="checkbox"/>	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by:</b> LV
			<b>Reviewed on:</b> 07/19/2013
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 9 – Burrus</b>

<b>Taylor Age: 10</b>		<p><b>TANIA CHEEK</b>, mother, is petitioner.</p> <p><b>TERRY</b> and <b>LINDA CHEEK</b>, paternal grandparents were appointed guardians on 12/01/2008.</p> <p>Father: <b>MICHAEL T. CHEEK</b></p> <p>Maternal Grandfather: James Kennedy          Maternal Grandmother: Anita Kennedy, Deceased</p> <p><b>Petitioner states:</b> she has completed six months of her 18-month program at Rescue the Children. She states that she has made mistakes in the past but is now moving forward and would like to start moving forward with her children and in order to do so she needs more than four hours per month and one phone call per week. Petitioner states that she is grateful to Linda and Terry Cheek, guardians, however she wants to raise her children. She is requesting that the guardianship be terminated and that her children come live with her at her program. She states that if the children come live with her that the program will provide for all of their housing, food, clothing and all necessities.</p> <p>Attached to the petition are letters in support of the petitioners request to terminate the guardianship from counselors and the petitioner's two eldest children.</p> <p><b><u>Please see additional page</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the petitioner for termination of guardianship or declaration of due diligence for:             <ul style="list-style-type: none"> <li>• Michael T. Cheek (Father)</li> <li>• Terry Cheek (Guardian)</li> <li>• Linda Cheek (Guardian)</li> </ul> </li> </ol>	
<b>Byron Age: 7</b>				
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input type="checkbox"/>	<b>Notice of Hrg</b>			x
<input type="checkbox"/>	<b>Aff.Mail</b>			x
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input type="checkbox"/>	<b>Letters</b>			
<input type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input checked="" type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
		<p><b>Reviewed by:</b> LV</p> <p><b>Reviewed on:</b> 07/19/2013</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 10 – Cheek</b></p>		

**Guardians' Objections to Petition for Termination of Guardianship filed 07/03/2013** states the guardians oppose the petition of Tania Cheek for termination as the guardianship remains necessary to provide care and supervision to safeguard and enhance the children's health, safety, and welfare. It is not in the best interest of the children that the guardianship be terminated in that the proposal would result in the minor's permanent living situation of the past four and one half years being abruptly and radically altered, and being replaced with an uncertain and temporary living situation. There is no showing that the petitioner can, and would provide for the health, safety and welfare of the children.

**Guardians' –Objectors' Memorandum of Points and Authorities in Opposition to Petition for Termination of Guardianship filed 07/03/2013.**

**Court Investigator Jennifer Daniel's report filed 07/17/2013.**

**Current Visitation Order pursuant to minute order of 01/31/2013:** The Court authorizes one telephone call between mother and the children once per week on a Tuesday or Wednesday between 5pm-7pm for a period of one month. The guardians are ordered to transport the children to the program twice a month on a Sunday to visit with their mother from 1:30pm until 3:30pm. The guardians are further ordered to work with the program regarding visitation.

Jose age: 11		<b>TEMPORARY EXPIRES 7/24/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
Dominic age: 4		LINDA LOUISE PORTILLO, paternal grandmother, is petitioner.		<p><b>Minute Order dated 6/6/12</b> states the Court recommends that there be visitation between the mother and the children at Rick and Jackie Benton's home with no one else present, especially the uncles. The Court further recommends that the uncles not be around during any visits. Matter is continued to 7/24/2013. The Court indicates to the parties that the temporary will expire on 7/24/2013 unless an earlier termination is deemed appropriate by the Family Law Court.</p> <p><b>Note:</b> A competing petition for guardianship has been filed by the maternal grandparents, Rick Benton and Jackie Benton. Please see page 11B.</p> <p>1. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence for:</p> <p>a. Joe Portillo (paternal grandfather)</p>	
		Father: JOSE ALFREDO PORTILLO – personally served on 2/10/2013			
		Mother: JENNIFER BENTON – personally served on 2/10/2013			
Cont. from 041013, 060613		Paternal grandfather: Not listed (Joe Portillo)			
	Aff.Sub.Wit.		Maternal grandfather: Rick Benton – personally served on 2/12/13.		
✓	Verified		Maternal grandmother: Jackie Benton – personally served on 2/10/13.		
	Inventory		Petitioner states her son, the boys' father, had been living in her home for the past 2 years. He has sole custody of the children. The children have already been through a lot with their parents before coming to petitioner's home.		
	PTC		Petitioner states she does not want the children suffering the lifestyle their father chooses to live.		
	Not.Cred.		<b>Objections of Jennifer Benton, mother, filed on 3/29/13.</b> Mother states she is requesting custody of her children back. She had been recovering from an accident where she was walking and was struck by a hit and run driver. Mom states she feels that the Petitioner is manipulating her son (Jose, Jr.) and trying to turn her children against her.		
✓	Notice of Hrg				
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.	W/			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
Please see additional page				<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 7/19/13</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 11A - Portillo</b></p>	

**Objections of Jennifer Benton, mother (cont.):** Since Petitioner was granted temporary guardianship Mom states she has not been able to see her children like she has been accustomed to (every other weekend Friday at 5:00 until Sunday after church) and holidays, school breaks and other times as agreed upon. Mom states she is working twice per week (sometimes more) at Dominic's preschool class. After the temporary was granted Mom states she called to see if she could have her regular visit. After several phone calls and several excuses, she was told that she was not going to have her visits anymore. The temporary guardian is only allowing visits supervised by her.

Mom states she has filed for custody of her children in the Family Court.

**Objections of Rick Benton and Jackie Benton filed on 4/8/13** states they object to Linda Portillo having guardianship of Jose, Jr. and Dominic. They are in full support of the mother having custody of her children. Their daughter has been recovering from an accident where she was struck by a hit and run driver. The father has had custody for about 2 years, prior to that the children were living with their mother. While mom was in the hospital, in a coma, the father filed for custody of Jose Jr. Mom was unable to communicate or defend herself at the time. As for the Objectors, they state they stayed with mom at the hospital, day and night only coming home to shower and change their clothes. Their daughter has now made a full recovery and has filed for custody of her children. Objectors fear Linda Portillo is manipulating the children to stay with her.

**Court Investigator JoAnn Morris' report filed on 4/4/13.**

**Court Investigator JoAnn Morris' Report filed on 5/23/13**

Atty Portillo, Linda Louise (pro per paternal grandmother)  
Atty Benton, Jennifer (pro per mother)  
Atty Benton, Rick Leaman Sr. (pro per Petitioner/maternal grandfather)  
Atty Benton, Jackie Eva (pro per Petitioner/maternal grandmother)

## **Petition for Appointment of Guardian of the Person (Prob. C. 1510)**

Jose age: 11 Dominic age: 4 Cont. from 060613			<b>TEMPORARY granted to competing petitioner</b> <b><u>Linda Portillo EXPIRES 6/6/2013</u></b> <b>RICK LEAMAN BENTON, Sr. and JACKIE EVA BENTON</b> , maternal grandparents, are petitioners. Father: <b>JOSE ALFREDO PORTILLO</b> – personally served on 4/8/2013 Mother: <b>JENNIFER BENTON</b> – personally served on 4/8/2013 Paternal grandmother: Linda Portillo – personally served on 4/8/2013. Paternal grandfather: Not listed (Joe Portillo) – personally served on 4/8/2013. <b>Petitioners state</b> they are objecting to Linda Portillo having guardianship. They are in full support of the mother obtaining her parental custody back. The mother, who has been recovering from a hit and run accident, is available and ready to take care of her children. <b>Court Investigator Joann Morris' Report filed on 5/23/13.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<input type="checkbox"/> Aff.Sub.Wit.	<input type="checkbox"/> Verified	<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	<input type="checkbox"/> Not.Cred.	<input checked="" type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail	<input type="checkbox"/> Aff.Pub.	<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.	W/	<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	<input checked="" type="checkbox"/> Duties/Supp	<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt	<input checked="" type="checkbox"/> CI Report	<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Aff. Posting	<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA	<input type="checkbox"/> Citation	<input type="checkbox"/> FTB Notice		
			Reviewed by: KT Reviewed on: 7/19/2013 Updates: Recommendation: File 11B – Portillo	





		<b>FRESNO COUNTY PUBLIC GUARDIAN</b> was appointed Conservator of the Person and Estate on 5-15-13.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b><u>OFF CALENDAR</u></b>  Order authorizing Sale of Real Property (Former Residence) and Personal Property of the Estate was signed ex parte on 7-15-13.
Cont. from 060513, 061913, 071013		Public Guardian also requested authority to sell the proposed conservatee's former residence and retain the services of a licensed real estate broker to assist in the sale, and to sell personal property no longer needed by the Conservatee.	
Aff.Sub.Wit.			
Verified		At hearing on 5-15-13, the Court granted conservatorship and ordered counsel appointed for Ms. Togo and continued the matter regarding the sale of her real and personal property. The Court also set this status hearing.	
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 7-18-13	
		Updates:	
		Recommendation:	
		File 13B – Togo	

Age: 1 month		<b>TEMP GRANTED TO MELVA PALMS EXPIRES 8-13-13</b>  <b>GENERAL HEARING (MELVA PALMS PETITION): 8-13-13</b>  <b>GENERAL HEARING (HELEN JOHNSON PETITION): 9-18-13</b>  <b>HELEN JOHNSON</b> , Cousin, is Petitioner.  Father: "N/A" Mother: <b>LANEDREA TOWNSEND</b>  Paternal Grandparents: "N/A"  Maternal Grandfather: Tony Townsend Maternal Grandmother: Katrina Reeves  <b>Petitioner states</b> the mother is temporarily unfit to care for the child. He was living with Melva Palms who is not related and no one inside the family knows her but the mom. On 6-24-13, CPS placed the child with Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Note:</u> Melva Palms, a family friend, was appointed temporary guardian on 6-26-13. General hearing on Ms. Palms' petition is 8- 13-13. DSS will provide investigation report for Ms. Palms' petition pursuant to Probate Code §1513(a) (non-relative guardianship).  1. Petitioner Helen Johnson states she is a cousin. The Court may require clarification as to her relationship to the minor for information as to whether investigation will be completed by the Court or by DSS pursuant to Probate Code §1513(a).  2. Need Notice of Hearing.  3. Need proof of personal service of Notice of Hearing with a copy of the temp petition at least five days prior to the hearing per Probate Code §2250(e) on: - Landedrea Townsend (Mother) - Father (or declaration of due diligence)  4. The Court may also require notice to Melva Palms, Temporary Guardian.
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	X		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc Reviewed on: 7-19-13 Updates: Recommendation: File 14 – Townsend-Palms	

## Ex Parte Petition for Withdrawal of Funds From Blocked Account

<b>Age:</b> 9	<b>MARIA ALVAREZ-GARCIA</b> , Maternal Grandmother, Guardian, and Trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		1. There is an upcoming status hearing for filing of the Second Account set for 7-23-13. No account has yet been filed. The Court may require accounting prior to consideration of this request.
<b>Cont. from 071713</b>	Petitioner requests distribution of <b>\$33,555.39</b> for reimbursement/remodeling/ Adam's necessities, and <b>\$1,124.50</b> for attorney fees and reimbursement of filing fees.	2. The Court may require clarification and authority regarding the extensive kitchen remodel as a special need of the beneficiary. Petitioner describes certain issues, such as broken cabinets and damage caused by Adam's wheelchair; however, the Court may require clarification regarding the request for sink and mold repair, all new appliances, granite countertops, etc., which appear to be homeowner expenses rather than special needs.
<b>Aff.Sub.Wit.</b>		3. Upon settling the first account, the Court ordered that the trust be named as a lienholder on the vehicle purchased with trust funds since it is held individually outside of the trust. However, the Auto Policy Declarations attached to this petition indicate that the trust has <i>not yet been named</i> as a lienholder pursuant to the Court's order. <u>Need proof of lien for trust per Court order 1-30-12.</u>
<b>Verified</b>		4. The Court may require clarification regarding the status of the van and the circumstances necessitating the various repairs, including tires and brakes, for the van (2011 Honda Odyssey, approx. 53,000 miles).
<b>Inventory</b>	Petitioner states Adam is almost 10 years old, weighs approx. 103 pounds, and has the mentality of a two-year-old. He is unable to walk, but does crawl, climb, and shimmy across the floor. When he is in his wheelchair, he uses his legs to roll around. Although mentally two years old, he is physically getting older and is more ambulatory.	<b>Reviewed by:</b> skc
<b>PTC</b>		<b>Reviewed on:</b> 7-15-13
<b>Not.Cred.</b>		<b>Updates:</b>
<b>Notice of Hrg</b>		<b>Recommendation:</b>
<b>Aff.Mail</b>		<b>File 15 – Carbajal</b>
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>	<b>Funds will be used for items/services including:</b>	
<b>Letters</b>	<ul style="list-style-type: none"> <li>Bissell Carpet Cleaner \$505.53</li> <li>New mattress for special needs bed \$355.56</li> <li>Back supports for Petitioner and her husband to assist in Adam's movement</li> <li>iPad suggested by Adam's school \$894.31, plus case \$53.83</li> <li>Reimbursement for medication \$175.35</li> <li>Reimbursement for carpet cleaning \$100.00</li> <li>Reimbursement for car detailing \$165.00</li> <li>Vehicle services for van \$621.06</li> <li>New tires for van \$860.51</li> <li>New brakes for van \$624.84</li> <li>Insurance for van \$1,199.58</li> <li>Kitchen repair \$28,000.00 for Adam's benefit (see contractor's quote Exhibit F)</li> </ul>	
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>	Petitioner states the current value of the trust is \$155,332.03 with monthly annuity payments of \$1,151.00 for 22 more years. Petitioner states that after disbursements as requested, there are sufficient assets for the trust to continue to provide for the reasonably foreseeable special needs of Adam.	

Age: 14 years		<b>TEMPORARY EXPIRES 7/24/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>BARBARA HUNGERFORD</b> , paternal grandmother, and <b>BRENDA EPPERSON</b> , sister, are petitioners.		<b>This matter will be heard in Dept. 71 at 8:30 a.m.</b>  <b>Note:</b> Judge Robert Oliver was disqualified pursuant to C.C.P. 170.6 on 5/21/2013.  1. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence for: a. William Dawson (paternal grandfather)	
		Father: <b>WILLIAM DAWSON</b> – Deceased.			
		Mother: <b>DEBORAH DAWSON</b> – consents and waives notice.			
		Paternal grandfather: William Dawson			
		Maternal grandfather: Deceased			
		Maternal grandmother: Deceased.			
Cont. from		<b>Petitioners state</b> the minor and the co-guardian, Brenda had been living with their father until he passed away. Since then they have been living with the paternal grandmother/petitioner Barbara Hungerford. The minor has a learning disability and is in a special education program. She is very stable and happy.			
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	W/			
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✓	Letters				
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	Objections				
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✓	CI Report				
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✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 7/19/2013	
				Updates:	
				Recommendation:	
				File 1 – Dawson	

Atty Johns, Dallas R. (for Darrell T. Burks and Elizabeth Davis – paternal grandfather & step-grandmother/Petitioners)

**Petition for Appointment of Temporary Guardianship of the Person**

Age: 8		<b><u>TEMPORARY EXPIRES 07/24/13</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b><u>GENERAL HEARING 09/03/13</u></b>		
		<b>DARRELL T. BURKS and ELIZABETH DAVIS</b> , paternal grandfather and step-grandmother, are Petitioners.		<b><u>CONTINUED FROM 07/16/13</u></b> Minute order from 07/16/13 states: Mother and father object to the Petition. The Court directs the parties to submit their concerns in writing. The temporary guardianship is granted until 07/24/13. The general hearing remains set for 09/03/13.
Cont. from 071613		Father: <b>RUSSELL W. BURKS</b> – Personally served on 07/09/13		
	Aff.Sub.Wit.		Mother: <b>TAMMY TREJO</b> – Personally served on 07/09/13	1. Need Notice of Hearing.
✓	Verified		Paternal grandmother: PEGGY BURKS	
	Inventory		Maternal grandfather: ANTHONY TREJO	
	PTC		Maternal grandmother: SHIRLEY TREJO	
	Not.Cred.		<b>Petitioners allege</b> that until June 5, 2013, Elijah was living with his mother and approximately 16 other maternal relatives (children and adults) in a home in Live Oak, CA. Petitioners allege that the home was filthy and the children were running around unsupervised. Petitioners allege that Elijah has been taught by other children living in the home to light fires and was shot in the hand with a BB as a result of playing with a BB gun found in the back yard of the home. Petitioners state that Elijah's mother failed to obtain dental and medical treatment for Elijah and he had 8 cavities when they took him the doctor. Petitioners further state that Elijah was doing poorly in school. Petitioners state that since Elijah has been living with them, they have got him medical and dental treatment, enrolled him in swimming lessons, and have spent a lot of time reading with him. Petitioner Burks states that he is retired and is home to care for Elijah. Petitioners believe that temporary guardianship is necessary because the mother has not been providing adequate care for a long time and father is not able to pursue custody at this time. Petitioners believe it is in Elijah's best interest to continue to reside with them so that they can provide him with appropriate supervision, love, care and stability.	
	Notice of Hrg	x		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.			
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
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✓	UCCJEA			
	Citation			
	FTB Notice			

Continued on Page 2

**Reviewed by:** JF

**Reviewed on:** 07/22/13

**Updates:** 07/23/13

**Recommendation:**

**File 1 – Burks**

**Objection to Guardianship filed 07/16/13 by mother, Tammy Trejo, states:** Since moving in with her sister in July 2012, Elijah's best interests has been her #1 priority. The past year has been an adjustment for them, but much of what Petitioner states in his Petition is untrue. The home they are living in is not unsanitary and the carpets are not black as stated in the Petition. Ms. Trejo understand that there are a lot of people living in their home, but they are all family members and it is not a harmful environment. Elijah is always supervised by an adult living in the home and is well taken care of. All of the people living in the home work together to look out for the children and help each other. Elijah has been doing well in school. Ms. Trejo states that there is no reason for a guardianship. She and Elijah's dad are capable of providing for all of Elijah's needs. ***The Objection also includes letter from several family members also stating that the home is not unsanitary and stating that Tammy is a good mother to Elijah and all of his needs are being met.***

**Declaration of Tammy Trejo, mother, filed 07/22/13** attaches more information in support of her declaration filed 07/16/13 and includes information regarding swimming lessons, doctor's appointments, immunizations, and pictures of the home where she and Elijah have been living for the past year.